

FINAL STATEMENT OF REASONS

The Legislature found and declared that some adoptive children may benefit from either direct or indirect contact with birth relatives, including the birthparent or parents or any siblings, or an Indian tribe, after being adopted.

A post-adoption contact agreement is intended to ensure children of continuing contact, when contact is beneficial to the children and the agreements are achievable and voluntarily executed. Included parties within a post-adoption contact agreement may be birth relatives, including the birth parent or parents or any siblings, or an Indian tribe, and adoptive parents. Any and all parties are not required to participate in the development of a post-adoption contact agreement in order for the agreement to be executed.

- a) Specific Purpose and Factual Basis that the Regulations are Accomplishing and Necessary:

Section 35000(k)(1)

Specific Purpose:

This amendment of Section 35000(k)(1), is necessary to adhere to Assembly Bill (AB) 2921, (Chapter 910, Statutes of 2000), amending the reference from Family Code section 8714.7 to section 8616.5, which removed the limitations to those prospective adoptive parents who may participate in a post-adoption contact agreement. Further, the form ADOPT-310 (1/03) was renamed by Judicial Council, thus reflecting that change here also.

Factual Basis:

The deletion of this section is necessary to align with Assembly Bill (AB) 2921, (Chapter 910, Statutes of 2000), adding Family Code section 8616.5. Family Code section 8616.5 revised all references of the term “kinship adoption agreement” to “post-adoption contact agreement” and removing the limitations of whom may participate in a post-adoption contact agreement.

Final Modification:

This section is being deleted and moved to Section 35000(p)(11) for alphabetical listing by form definition name. Also, note that in the originally noticed text there was an erroneous continuation reference of (k)(2); there is no (k)(2).

Section 35000(p)(11)

Specific Purpose:

This adoption of Section 35000(p)(11), is necessary to adhere to Assembly Bill (AB) 2921, (Chapter 910, Statutes of 2000), amending the reference from Family Code section 8714.7 to section 8616.5, which removed the limitations to those prospective adoptive parents who may participate in a post-adoption contact agreement. Further, the form ADOPT-310 (1/03) was renamed by Judicial Council from "Kinship Adoption Agreement" to "Contact After Adoption Agreement," with CDSS defining it in these regulations as "Post-Adoption Contact Agreement" to align with Family Code section 8616.5. The form is appropriately incorporated by reference as the latest version ADOPT-310 (1/18) at Section 35001(j)(6), alphabetized based on that it is a Judicial Council form.

Factual Basis:

The adoption of this section is necessary to align with Assembly Bill (AB) 2921, (Chapter 910, Statutes of 2000), adding Family Code section 8616.5. Family Code section 8616.5 revised all references of the term "kinship adoption agreement" to "post-adoption contact agreement" and removing the limitations of whom may participate in a post-adoption contact agreement. Post-hearing the proposed text at Section 35000(k)(1) has been moved here for alphabetical purposes and updated non-substantively to ensure limitations of whom may participate in a post-adoption contact agreement are removed.

Sections 35000(p)(12) and (p)(13) Renumbered from Sections 35000(p)(11) and (p)(12)

Specific Purpose/Factual Basis:

Sections 35000(p)(11) and (p)(12) are renumbered to Sections 35000(p)(12) and (p)(13) to accommodate the addition of Section 35000(p)(11). There are no further changes.

Section 35001(j)(6)

Specific Purpose:

This amendment renames and updates the revision date of the form ADOPT-310. The specific purpose of revising Section 35001(j)(6), is to change the title "Kinship Adoption Agreement" to "Contact After Adoption Agreement." No substantive changes to the form were made. The form ADOPT- 310 has already been updated pursuant to Family Code section 8616.5.

Factual Basis:

This is a Judicial Council form, which was modified due to Assembly Bill (AB) 2921, (Chapter 910, Statutes of 2000), adding Family Code section 8616.5. Family Code section 8616.5 revised all references of the term “kinship adoption agreement” to “post-adoption contact agreement” defined at Section 35000(k)(1).

Final Modification:

This section has been modified to reflect the new revision date due to Judicial Council releasing a January 1, 2018, revision of ADOPT-310 (1/18). The revision is non-substantive technical and grammatical changes, including updating the references from Family Code section 8714.7 to Family Code section 8616.5. Finally, "post-adoption contact agreement" is now defined at Section 35000(p)(11).

Section 35064(a)

Specific Purpose:

The specific purpose of adding Section 35064(a), is necessary to implement AB 2921, (Chapter 910, Statutes of 2000), requiring the affidavit to be included when ADOPT - 310 form is submitted to the court.

Factual Basis:

The Section 35064(a), addition is necessary to implement AB 2921, (Chapter 910, Statutes of 2000), adding Family Code section 8616.5. AB 2921, requires that an affidavit of the post-adoption contact adoption agreement be submitted with the related form (ADOPT - 310).

Final Modification:

This section has been modified to remove the revision date due to the form being defined and incorporated by reference at Section 35001(a)(6), which includes the revision date.

Handbook Sections 35064(a)(1) and (2), and (2)(A) and (B)

Specific Purpose / Factual Basis:

The Handbook Chapter entitled “Kinship Adoption Agreements” and reference to Family Code section 8714.7 were statutorily revised per Assembly Bill (AB) 2921, (Chapter 910, Statutes of 2000), adding Family Code section 8616.5.

The Handbook revisions are necessary to implement Assembly Bill (AB) 2921, (Chapter 910, Statutes of 2000), adding Family Code section 8616.5. Family Code section 8616.5 revised all references of the term “kinship adoption agreement” to “post-adoption contact

adoption agreement” which included the relevant form (ADOPT – 310). The handbook section includes the potential terms for post-adoption contact agreements and the provisions for sharing information in the future.

Final Modification:

This handbook section has been modified per public comment to include other relatives who may be included in a post-adoption contact agreement.

Section 35064(b)

Specific Purpose:

The specific purpose of adding Section 35064(b), is necessary to implement AB 2921, (Chapter 910, Statutes of 2000), to ensure the ADOPT – 310 form, if used, is filed with the Adoption Request.

Factual Basis:

The Section 35064(b) addition is necessary to implement AB 2921, (Chapter 910, Statutes of 2000), adding Family Code section 8616.5. AB 2921, requires that an affidavit of the post-adoption contact adoption agreement be submitted the related form (ADOPT - 310).

Final Modification:

This section has been modified to add "adoption" preceding "petition." This is a non-substantive technical change.

Section 35064(b)(2)

Specific Purpose:

The specific purpose of adding Section 35064(b)(2), is necessary to implement AB 2921, (Chapter 910, Statutes of 2000), to ensure the ADOPT – 310 form, if used, is filed with the Adoption Request.

Factual Basis:

The Section 35064(b)(2), addition is necessary to implement AB 2921, (Chapter 910, Statutes of 2000), adding Family Code section 8616.5. AB 2921 requires that if affidavit of the post-adoption contact adoption agreement was not submitted with the ADOPT -- 310, then the agreement will be submitted to the department, county adoption agency, or the licensed adoption agency.

Final Modification:

This section has been modified to delete "from" and replace with "for." This is a non-substantive grammatical change.

Sections 35152.1(b)(1)(J) and (J)1. and 2.

Specific Purpose and Factual Basis:

The revisions are necessary to implement Assembly Bill (AB) 2921, (Chapter 910, Statutes of 2000), amending adding Family Code section 8616.5. Family Code section 8616.5 revised all references of the term “kinship adoption agreement” to “post-adoption contact adoption agreement.” This section revision includes the term revision and, per statute, removes the constrains of contact adoption agreement from limiting just relative adopting parent(s) from participating in these agreements. The removal of the enforcement language was to remove the unnecessary language in the regulation text. The regulation text already speaks to the agreement being established by the court. There are no statutes that directly speaks to the enforcement process of the agreement.

Final Modification:

Section 35152.1(b)(1)(J) has been modified to delete "an enforceable written" to make the text consistent with other section amendments based on the above Specific Purpose and Factual Basis. Further, a proposed comma after "child" is deleted for grammatical purposes.

Section 35152.1(b)(2)

Specific Purpose:

The word "natural" was deleted throughout the to be consistent with current law and to be grammatically correct. The former language was redundant, “alleged natural father.”

Factual Basis:

The word "natural" was deleted throughout the to be consistent with current law, Family Code sections 7662 and 7663.

Sections 35152.1(b)(2)(I) and (I)1. and 2.

Specific Purpose and Factual Basis:

The revisions are necessary to implement Assembly Bill (AB) 2921, (Chapter 910, Statutes of 2000), amending adding Family Code section 8616.5. Family Code section 8616.5 revised all references of the term “kinship adoption agreement” to “post-adoption contact adoption agreement.” This section revision includes the term

revision and, per statute, removes the constraints of contact adoption agreement from limiting just relative adopting parent(s) from participating in these agreements.

Final Modification:

Section 35152.1(b)(2)(I) has been modified to delete a proposed comma after "age" for grammatical purposes.

Sections 35152.1(b)(4)

Specific Purpose:

The word "natural" was deleted throughout the to be consistent with current law and to be grammatically correct. The former language was redundant, “alleged natural father.”

Factual Basis:

The word "natural" was deleted throughout the to be consistent with current law, Family Code sections 7662 and 7663. This statement is duplicative to section Sections 35152.1(b)(2), as it represents the same alterations, the simple removal of the redundant word, natural.

Sections 35152.2(b)(2)

Specific Purpose:

The word "natural" was deleted throughout the to be consistent with current law and to be grammatically correct. The former language was redundant, “alleged natural father.”

Factual Basis:

The word "natural" was deleted throughout the to be consistent with current law, Family Code sections 7662 and 7663. This statement is duplicative to section Sections 35152.1(b)(2), as it represents the same alterations, the simple removal of the redundant word, natural.

Sections 35152.2(b)(4)

Specific Purpose:

The word "natural" was deleted throughout the to be consistent with current law and to be grammatically correct. The former language was redundant, “alleged natural father.”

Factual Basis:

The word "natural" was deleted throughout the to be consistent with current law, Family Code sections 7662 and 7663. This statement is duplicative to section Sections 35152.1(b)(2), as it represents the same alterations, the simple removal of the redundant word, natural.

Sections 35179(b)(4)(F) and (F)1., 2., and 3.

Specific Purpose:

The revisions are necessary to implement Assembly Bill (AB) 2921, (Chapter 910, Statutes of 2000), amending adding Family Code section 8616.5 which now requires that all prospective adoptive parents received the same information. The section revision includes the sharing of information regarding but not limited to the California Victim Compensation Program, SSI payment and or community based services.

Factual Basis:

The revisions are necessary to provide clarity that per Family Code section 8616.5 all prospective adoptive parents receive information regarding additional resources. The revision adds that the resources may include, but are not limited to, information regarding the California Victim Compensation Program, SSI payment, and/or community based services.

Final Modification:

Section 35179(b)(4)(F)1. has been modified to correct California Victim Compensation Program to California Victim Compensation Board, and to add Death Benefits (e.g., Social Security Survivor Benefits) as information that may be provided to an applicant. The information may be cross-referenced in the context of SSI benefits but this alteration to regulation text provides the reader more clarity.

Section 35181(g)

Specific Purpose:

These revisions are necessary to provide clarity that during the full assessment of the prospective adoptive applicant(s), the agency shall consider if the applicant is interested in entering into a post-adoption contact agreement. If the applicant is interested in a post-adoption contact agreement, then the agency should determine what kind of agreement.

Factual Basis:

Modifying the defined term and limitations to post adoption contact agreements is necessary to align with Assembly Bill (AB) 2921, (Chapter 910, Statutes of 2000). This legislation revised all references of the term “kinship adoption agreement” to “post-adoption contact agreement” and removed the expanded that these agreements may occur with non-relatives. Reconfiguring the section regarding the full assessment process, provides clarity and removes the previously imposed restrictions regarding post adoption contact agreement.

Final Modification:

This section has been modified to add the words "The agency shall consider" and "Indian" to be technically correct. This section was moved from sub-Section 35181(d)(2), which included the directive "the agency shall consider" in Section 35181(d). The Department inadvertently left out the directive when moving the language to Section 35181(g).

Section 35183(f)

Specific Purpose:

The specific purpose of revising Section 35183, is to change the defined term “kinship adoption agreement” to “post-adoption contact adoption agreement.” Adding Section 35183(f), removes the previously imposed restrictions regarding post adoption contact agreement. The revisions are necessary to provide clarity that during the abbreviated assessment of the prospective adoptive applicant(s), the agency shall consider if the applicant is interested in entering into a post-adoption contact agreement. If the applicant is interested in a post-adoption contact agreement, then the agency should determine what kind of agreement.

Factual Basis:

Modifying the defined term and limitations to post adoption contact agreements is necessary to align with Assembly Bill (AB) 2921, (Chapter 910, Statutes of 2000). This legislation revised all references of the term “kinship adoption agreement” to “post-adoption contact agreement” and removed the expanded that these agreements may occur with non-relatives. Reconfiguring the section regarding the abbreviated assessment process, provides clarity and removes the previously imposed restrictions regarding post adoption contact agreement.

Final Modification:

This section has been modified to add the words "The agency shall consider" and "Indian" to be technically correct. This section was moved from sub-Section 35183(e)(2), which included the directive "the agency shall consider" in Section

35183(e). The Department inadvertently left out the directive when moving the language to Section 35183(f).

Section 35211(d)(4)(B)

Specific Purpose:

The specific purpose of revising Section 35211(d)(4)(B), is necessary to remove the term “Adoptions Branch” to simply state the CDSS. This correction reflects the current CDSS structure, which simply refers to the CDSS regarding the FBI criminal background check.

Factual Basis:

The revision to Section 35211(d)(4)(B), is necessary to correction the current CDSS structure, which simply refers to the CDSS regarding written notification, e.g. regarding the FBI criminal background check.

Final Modification:

This section has been modified to change the outdated acronym from SDSS to CDSS (California Department of Social Services) to be technically correct.

Section 35215(a)(1)(D)

Specific Purpose:

The specific purpose of revising Section 35215(a)(1)(D), is necessary to remove the term “Adoptions Branch” to simply state the CDSS. This correction reflects the current CDSS structure, which simply refers to the CDSS regarding the FBI criminal background check as it relates to a grievance review hearing.

Factual Basis:

The revision to Section 35215(a)(1)(D), is necessary to correction the current CDSS structure, which simply refers to the CDSS regarding written notification, e.g. regarding the FBI criminal background check as it relates to a grievance review hearing.

Final Modification:

This section has been modified to change the outdated acronym from SDSS to CDSS (California Department of Social Services) to be technically correct.

Section 35315(a)(3)(A)2.

Specific Purpose:

The specific purpose of revising Section 35315(a)(3)(A)2., is necessary to remove the term “Adoptions Branch” to simply state the CDSS. This correction reflects the current CDSS structure, which simply refers to the CDSS regarding the FBI criminal background check.

Factual Basis:

The revision to 35315(a)(3)(A)2., is necessary to correction the current CDSS structure, which simply refers to the CDSS regarding written notification, e.g. regarding the FBI criminal background check.

Final Modification:

This section has been modified to change the outdated acronym from SDSS to CDSS (California Department of Social Services) to be technically correct.

Section 35315(a)(3)(A)3.

Specific Purpose:

The specific purpose of revising Section 35315(a)(3)(A)3. is necessary to remove the term “Adoptions Branch” to simply state the CDSS. This correction reflects the current CDSS structure, which simply refers to the CDSS regarding the FBI criminal background check.

Factual Basis:

The revision to Section 35315(a)(3)(A)3., is necessary to correction the current CDSS structure, which simply refers to the CDSS regarding written notification, e.g. regarding the FBI criminal background check.

Final Modification:

This section has been modified to change the outdated acronym from SDSS to CDSS (California Department of Social Services) to be technically correct.

b) Local Mandate Statement

These regulations do not impose a mandate on local agencies or school districts. There are no state-mandated local costs in this order that require reimbursement under the laws of California.

c) Statement of Alternatives Considered

In developing the regulatory action, CDSS considered the following alternatives with the following results: No alternatives have been presented to CDSS.

CDSS has determined that no reasonable alternative considered or that has otherwise been identified and brought to the attention of CDSS would be more effective in carrying out the purpose for which the regulations are proposed or would be as effective as and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law. The AB 2921 Chapter 910, Statutes of 2000, Family Code section 8616.5, specifically calls for the revision on the term “kinship adoption agreement” to “post-adoption contact adoption agreement.” Should the CDSS maintain the existing regulation language it would be more burdensome as it would be out of compliance of AB 2921 Chapter 910, Statutes of 2000.

d) Statement of Significant Adverse Economic Impact On Business

CDSS has determined that the proposed action will not have a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. This determination was made based on the knowledge that this revision does not represent a new activity or service. The regulation revision would merely revise all references of the term “kinship adoption agreement” to “post-adoption contact adoption agreement.”

e) Testimony and Response

CDSS noticed these regulations to the public for a 45-day comment period in the Office of Administrative Law California Regulatory Notice Register, Register 2018, No. 5–Z, dated February 2, 2018. They were considered as Item #1 at the public hearing held on March 21, 2018, in Sacramento, California. Comments were received during the 45-day comment period from February 2, 2018, closing at 5:00 p.m. on March 21, 2018, which resulted in non-substantive text changes [Handbook Section 35064(a)(1)]. In addition, CDSS made other non-substantive grammatical, technical, and reorganization changes to the regulations text as demonstrated in Section a) of this document.

The following written testimony was received during the 45-day comment period:

Vanessa Frando, Program Director, Department of Human Services, Kern County

1. Handbook Section 35064(a)(1)

Comment:

Section 35064(a)(1): Add "other birth relatives, including siblings and half-siblings" after the word "parents"

Response:

CDSS agrees with the public comment provided and made the appropriate modifications to the proposed Handbook text.

2. Section 35064(c)(3)(B)

Comment:

Section 35064(c)(3)(B): Clarification in the ACL16-107 does not indicate there needs to be a "preexisting relationship" as indicated in the proposed regulations.

Response:

An All County Letter (ACL) is guidance to California counties where regulations are not in place. Visitation of a child as listed in a post-adoption contact agreement are limited to those who had a preexisting relationship with the child. This is in accordance with Family Code section 8616.5, terms of a post-adoption contact agreement are limited if a relative does not have a "preexisting relationship" with the child.

The terms of any post-adoption contact agreement with birth relatives, are limited to the sharing of information about the child, unless the child has a preexisting relationship with the birth relative where they may have visitation listed.

Therefore, CDSS will keep the proposed text unchanged in adherence to Family Code section 8616.5.